

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Joseph Anthony Favors,

Civ. No. 20-2510 (PAM/ECW)

Plaintiff,

v.

ORDER

Malea Beeson-Stoesz,
Kristi Mike, Samantha
Ensz, Mike Hettig, Sonja
Walker, Heidi Menard,
Jeannine Herbert, Nancy
Johnston, and Jodi Harpstead,

Defendants.

This matter is before the Court on Plaintiff's Notice of Voluntary Dismissal. (Docket No. 16.) Defendants have moved to dismiss Plaintiff's claims, but have not answered or moved for summary judgment. Thus, this Notice in the usual case suffices to close this case without prejudice and without further Court action. See Fed. R. Civ. P. 41(a)(1)(A)(i) (before an answer or motion for summary judgment, a plaintiff may dismiss an action without court order by filing a notice of dismissal with the court); see also Miller v. Wayne, No. 14cv4997, 2015 WL 2353021, at *1 (D. Minn. May 15, 2015) (Tunheim, J.) (noting that a motion to dismiss is not the equivalent of an answer or motion for summary judgment under Rule 41(a)(1)(A)(i)). However, the Rule also provides that "if the plaintiff previously dismissed any federal- or state-court action based on or including the same claim, a notice of dismissal operates as an adjudication on the merits." Fed. R.

Civ. P. 41(a)(1)(B). The Court must therefore determine whether Plaintiff has raised these or similar claims previously and thus whether this case should be dismissed with prejudice.

In this matter, Plaintiff contends that Defendants conspired to lower his quarterly report scores in retaliation for his filing of grievances, in violation of 42 U.S.C. §§ 1983 and 1988. (See Compl. (Docket No. 1) at 3-4.)¹ He asserts that this conspiracy constituted deliberate indifference and failure to protect in violation of the Eighth Amendment and his substantive due-process rights, and violated Minnesota law. (Id. at 16-17.)

Plaintiff is a frequent litigator in this Court. By this Court's count, Plaintiff has filed no fewer than thirty federal lawsuits since 2010; he filed three new lawsuits within the past month alone. Not only does he file numerous lawsuits, he often voluntarily dismisses those lawsuits after the Court orders him to respond to a motion or to file a document. (E.g., Favors v. Ludeman, No. 10cv3747 (Docket No. 11) (notice of voluntary dismissal filed after Court ordered amended IFP application); Favors v. Jesson, No. 15cv2853 (Docket No. 6) (notice of voluntary dismissal for five pending cases); Favors v. First Premier Bank, No. 19cv2507 (Docket No. 17); Favors v. Discover Bank, No. 19cv3080 (Docket No. 14); Favors v. Mike, No. 20cv365 (Docket No. 90); Favors v. Harpstead, No. 20cv939 (Docket No. 12); Favors v. Menard, No. 20cv1156 (Docket No. 22).)

The Court has reviewed Plaintiff's previous filings to determine if he has indeed raised the same claims in any of those lawsuits that he raises here. And while it is often difficult to discern precisely what Plaintiff is claiming in pleadings that can only be

¹ Favors' Complaint is not separated into numbered paragraphs, and thus the citations are to the page number of the pleading.

described as prolix, it appears that the claims he raises here about retaliation are the same as those he raised in at least two other matters, Favors v. Mike, No. 20cv365, and Favors v. Menard, No. 20cv1156. To be sure, the method of the alleged retaliation against Favors is different in the other matters, but he appears to contend the same nucleus of operative facts in each: he complained about the treatment of another detainee and was retaliated against as a result of those complaints. (See, e.g., Compl. (Docket No. 1) at 4.) As noted above, Plaintiff voluntarily dismissed both Mike and Menard. Pursuant to the Rule, then, he is not entitled to a dismissal of this matter without prejudice.

Accordingly, **IT IS HEREBY ORDERED that** this matter is **DISMISSED with prejudice.**

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: Friday, March 5, 2021

s/ Paul A. Magnuson
Paul A. Magnuson
United States District Court Judge